

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Regulated Industries

BILL: SB 1852

INTRODUCER: Senator Bradley

SUBJECT: Hourly Rates at Public Lodging Establishments and Vacation Rentals

DATE: February 7, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Oxamendi</u>	<u>Imhof</u>	<u>RI</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>CM</u>	_____
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 1852 prohibits public lodging establishments from offering an hourly rate for an accommodation.

The bill takes effect July 1, 2022.

II. Present Situation:

The Division of Hotels and Restaurants (DHR) within the Department of Business and Professional Regulation licenses, inspects, and regulates public lodging and food service establishments in Florida. The DHR also licenses and regulates elevators, escalators, and other vertical conveyance devices.¹

A public lodging establishment includes establishments that are transient or nontransient.² A “transient public lodging establishment” means:

any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests.³

¹ DBPR, *Division of Hotels and Restaurants*, <http://www.myfloridalicense.com/DBPR/hotels-restaurants/> (last visited Jan. 14, 2022).

² See s. 509.013(4)(a), F.S., which provides “license classifications of public lodging establishments, and the definitions therefor,” are set out in s. 509.242, F.S. For the purpose of licensure, the term does not include condominium common elements,” as defined in s. 718.103, F.S.

³ *Id.* Section s. 509.013(11), F.S., further provides the term “transient establishment” means any public lodging establishment “that is rented or leased to guests by an operator whose intention is that such guests’ occupancy will be temporary.” Section s. 509.013(14), F.S., further provides the term “nontransient establishment” means any public lodging establishment “that is

A “nontransient public lodging establishment” means:

any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests for periods of at least 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests for periods of at least 30 days or 1 calendar month.⁴

Section 509.013(4)(b), F.S., exempts the following types of establishments from the definition of “public lodging establishment”:

1. Any dormitory or other living or sleeping facility maintained by a public or private school, college, or university for the use of students, faculty, or visitors;
2. Any facility certified or licensed and regulated by the Agency for Health Care Administration or the Department of Children and Families or other similar place regulated under s. 381.0072, F.S.;
3. Any place renting four rental units or less, unless the rental units are advertised or held out to the public to be places that are regularly rented to transients;
4. Any unit or group of units in a condominium, cooperative, or timeshare plan and any individually or collectively owned one-family, two-family, three-family, or four-family dwelling house or dwelling unit that is rented for periods of at least 30 days or one calendar month, whichever is less, and that is not advertised or held out to the public as a place regularly rented for periods of less than one calendar month, provided that no more than four rental units within a single complex of buildings are available for rent;
5. Any migrant labor camp or residential migrant housing permitted by the Department of Health under ss. 381.008-381.00895, F.S.;
6. Any establishment inspected by the Department of Health and regulated by ch. 513 F.S.;
7. Any nonprofit organization that operates a facility providing housing only to patients, patients’ families, and patients’ caregivers and not to the general public;
8. Any apartment building inspected by the United States Department of Housing and Urban Development or other entity acting on the department’s behalf that is designated primarily as housing for persons at least 62 years of age. The division may require the operator of the apartment building to attest in writing that such building meets the criteria provided in this subparagraph. The division may adopt rules to implement this requirement; and
9. Any roominghouse, boardinghouse, or other living or sleeping facility that may not be classified as a hotel, motel, timeshare project, vacation

rented or leased to guests by an operator whose intention is that the dwelling unit occupied will be the sole resident of the guest.”

⁴ *Id.*

rental, nontransient apartment, bed and breakfast inn, or transient apartment under s. 509.242, F.S.

A public lodging establishment is classified as a hotel, motel, vacation rental, nontransient apartment, transient apartment, bed and breakfast inn, or timeshare project.⁵

A “vacation rental” is defined in s. 509.242(1)(c), F.S., as:

...any unit or group of units in a condominium, cooperative, or timeshare plan or any individually or collectively owned single-family, two-family, three-family, or four-family house or dwelling unit that is also a transient public lodging establishment but is not a timeshare project.

Public lodging establishments must be licensed and inspected by the DHR, and are subject to sanitary standards, staff training and test requirements, administrative rules, and immediate closure upon a finding that continued operation presents a severe and immediate threat to the public health.⁶

Operators of public lodging establishment or public food service establishment may establish rules for guests and employees which must be printed in English and posted prominently within the establishment.⁷

In addition, operators of transient establishments must maintain a register in chronological order, signed by or for guests who occupy rental units in the establishment, indicating the dates of occupancy and the rates charged.⁸ Registers must be available for inspection by the DHR at any time, but need not be made available if they are more than two years old.⁹

Section 509.241(1), F.S., requires each public lodging establishment and public food service establishment to obtain a license from the DHR and to renew it annually in order to operate. Further, the DHR has adopted an administrative rule establishing a staggered schedule for license issuance and renewal, in which renewal dates are determined by the county in which the establishment is located.¹⁰

Licenses must be conspicuously displayed in the establishment’s office or lobby.¹¹

Section 509.251, F.S, provides the method of determining the license fees payable by public lodging establishments. For a public lodging establishment, the aggregate fee may not exceed

⁵ Section 509.242(1), F.S.

⁶ See ss. 509.032 and 509.035, F.S.

⁷ See s. 509.101, F.S.

⁸ See s. 509.101, F.S.

⁹ *Id.*

¹⁰ *Id.* See Fla. Admin. Code R. 61C-1.002(6).

¹¹ See s. 509.241(3), F.S.

\$1,000, not including a maximum \$50 fee to cover costs for initiating regulation, or any applicable delinquency fee which may not exceed \$50.¹²

By the end of Fiscal Year 2020-2021 there were 53,492 licensed public lodging establishments, including hotels, motels, transient and nontransient apartments, bed and breakfasts, and vacation rentals.¹³

III. Effect of Proposed Changes:

The bill creates s. 509.098, F.S., to prohibit public lodging establishments from offering an hourly rate for an accommodation.

The bill takes effect July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

¹² See s. 509.251(1), F.S. Vacation rental units or timeshare projects within separate buildings or at separate locations that are managed by one licensed agent may be combined in a single license application, and the DHR must charge a license fee as if all units in the application are in a single licensed establishment. *Id.*

¹³ Department of Business and Professional Regulation, *Division of Hotels and Restaurants Annual Report for FY 2020-2021* at page 8, available at http://www.myfloridalicense.com/dbpr/hr/reports/annualreports/documents/ar2020_21.pdf (last visited Feb. 4, 2022).

B. Private Sector Impact:

Public lodging establishments that offer accommodations for an hourly rate may be negatively affected by this bill.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 509.098 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.